



CITY OF WILLARD INVITATION FOR BID #04-2017PKS

Jennifer Rowe, City Clerk
City of Willard
224 W. Jackson, P.O. Box 187
Willard, Missouri 65781

Email: clerk@cityofwillard.org
Telephone Number: 417-742-5302
Fax Number: 417-742-3080
Due Date: October 27, 2017

SEALED BIDS MUST BE PHYSICALLY RECEIVED AT CITY HALL PRIOR TO **3:00 P.M. ON FRIDAY, October 27, 2017**. Bids will be opened by the buyer at the location listed above.

- Bids shall be submitted on the forms provided and must be manually signed by the individual authorized to legally bind the company.
- Bids shall be submitted with the IFB number clearly indicated on the outside of the mailing envelope.
- Bids received after the opening date and time will be rejected.
- The attached Terms and Conditions shall become part of any purchase order resulting from this bid.
- **FAXED/EMAILED BIDS WILL NOT BE ACCEPTED.**

You are invited to submit your bid to furnish the materials and/or services described herein. Please submit your prices/fees net of all discounts.

DESCRIPTION

Willard Recreation Center Activities Room

See attached General Conditions, Specifications, and Bid Form for detailed information.

DELIVERY: F.O.B. DESTINATION

The articles to be furnished hereunder shall be delivered all transportation charges paid by the bidder to destination.

It is the intent of the City that this Invitation for Bid promotes competitive bidding. It shall be the Vendor's responsibility to advise the City Clerk if any language, requirements, etc. any combination thereof, inadvertently restricts or limits the requirements stated in this Invitation for Bid to a single source. Such notification must be submitted in writing and must be received by the City Clerk not later than three (3) days prior to the bid opening date.

CITY OF WILLARD

INSTRUCTION TO BIDDERS

01. Opening Location

The Bids will be opened at the City of Willard, 224 W. Jackson, Willard, MO 65781 in the presence of City officials at the due date and time indicated on the IFB (Invitation for Bid). All bidders or their representatives are invited to attend the opening of the IFB.

02. IFB Delivery Requirements

Any Bids received after the above stated time and date will not be considered. It shall be the sole responsibility of the bidder to have their Bid delivered to the City Clerk's Office for receipt on or before the due date and time indicated. If a Bid is sent by U.S. Mail, the bidder shall be responsible for its timely delivery to the City Clerk's office. Bids delayed by mail shall not be considered, shall not be opened, and shall be rejected. Arrangements may be made for their return at the bidder's request and expense. Bids may be mailed to the City Clerk's office and accepted if the signed bid form and required information was mailed and received prior to the due date and time. Bids sent by email will not be accepted.

03. Sealed and Marked

If sent by mail, one original signed Bid shall be submitted in one sealed package, clearly marked on the outside of the package with the Invitation for Bid number and addressed to:

City of Willard
Attn: City Clerk
P.O. Box 187
224 W. Jackson,
Willard, MO 65781

04. Legal Name and Signature

Bids shall clearly indicate the legal name, address, and telephone number of the bidder (company, firm, corporation, partnership, or individual). Bids shall be manually signed above the printed name and title of signer on the Affidavit of Compliance page. The signer shall have the authority to bind the company to the submitted Bid. Failure to properly sign the Bid form shall invalidate same and it shall not be considered for award.

05. Corrections

No erasures are permitted. If a correction is necessary, draw a single line through the entered figure and enter the corrected figure above it. Corrections must be initialed by the person signing the Bid.

06. Clarification and Addenda

Each bidder shall examine all IFB documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries or suggestions, concerning interpretation, clarification, or additional information pertaining to the IFB shall be made through the City Clerk's office in writing or through email. The City Clerk shall not be responsible for oral interpretations given by any City employee, representative or others. The issuance of written addenda is the official method whereby interpretation, clarification, or additional information can be given. It shall be the responsibility of each bidder, prior to submitting their Bid, to contact the City Clerk at phone number 417-742-5302 to determine if addenda were issued and to make such addenda a part of their Bid.

07. IFB Expenses

All expenses for making Bids to the City are to be borne by the bidder.

08. Irrevocable Offer

Any Bid may be withdrawn up until the due date and time set for opening of the IFB. Any Bid not so withdrawn shall, upon opening, constitute an irrevocable offer for a minimum period of ninety (90) days to sell to the City the goods or services set forth in the IFB, until one (1) or more of the Bids have been duly accepted by the City.

09. Responsive and Responsible Bidder

To be responsive, a bidder shall submit a Bid which conforms in all material respects to the requirements set forth in the IFB. To be a responsible bidder, the bidder shall have the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance. The lowest responsible bidder shall mean the bidder who makes the lowest Bid to sell goods or services of a quality which conforms closest to the quality of goods or services set forth in the specifications or otherwise required by the City and who is known to be fit and capable to perform the Bid as made.

10. Reserved Rights

The City reserves the right to make such investigations as it deems necessary to make the determination of the bidder's responsiveness and responsibility. Such information may include, but shall not be limited to: current financial statement, verification of availability of equipment and personnel and past performance records.

11. The Right to Audit

The bidder agrees to furnish supporting detail as may be required by the City to support charges or invoices, to make available for audit purposes all records covering charges pertinent to the purchase and to make appropriate adjustments in the event discrepancies are found. The cost of any audit will be paid by the City. The City shall have the right to audit the bidder's records pertaining to the work/product for a period of three (3) years after final payment.

12. Applicable Law

All applicable laws and regulations of the State of Missouri and the City including the City Procurement Regulations and Procedures will apply to any resulting agreement, contract or purchase order. Any involvement with the City Procurement shall be in accordance with the Procurement Regulations and Procedures.

13. Right to Protest

Appeals and remedies are provided for in the City Procurement Regulations. Protestors shall seek resolution of their complaints initially with the City Clerk. Any protest shall state the basis upon which the solicitation or award is contested and shall be submitted within ten (10) calendar days after such aggrieved person knew or could have reasonably been expected to know of the facts giving rise thereto.

14. Ethical Standards

With respect to this IFB, if any bidder violates or is a party to a violation of the general ethical standards of the City Procurement Code or the State of Missouri Statutes, such bidder may be disqualified from furnishing the goods or services for which the Bid is submitted and shall be further disqualified from submitting any future Bids.

15. Collusion

By offering a submission to this Invitation for Bid, the bidder certifies the bidder has not divulged, discussed or compared the Bid with other bidders and has not colluded with any other bidder or parties to this IFB whatsoever. Also, the bidder certifies, and in the case of a joint Bid, each party thereto certifies as to their own organization, that in connection with this IFB:

- a. Any prices and/or cost data submitted have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices and/or cost data, with any other bidder or with any competitor.
- b. Any prices and/or cost data for this Bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the scheduled opening directly or indirectly to any other bidder or to any competitor.
- c. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.
- d. The only person or persons interested in this Bid, principal or principals are named therein and that no person other than therein mentioned has any interest in this Bid or in the contract to be entered into.
- e. No person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee exempting bona fide employees or established commercial agencies maintained by the Purchaser for the purpose of doing business.

16. Contract Forms

Any agreement, contract or purchase order resulting from the acceptance of a Bid shall be on forms either supplied by or approved by the City.

17. Liability and Indemnity

- a. In no event shall the City be liable to the Contractor for special, indirect or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.
- b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract there under (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage or for damages from the award of this contract to Contractor.
- c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

18. IFB Forms, Variances, Alternates

Bids must be submitted on attached City IFB forms, although additional information may be attached. Bidders must indicate any variances from the City requested specifications and/or terms and conditions, on the IFB Affidavit of Compliance. Otherwise, bidders must fully comply with the City requested specifications and terms and conditions. Alternate Bids may or may not be considered at the sole discretion of the City Purchasing Agent.

19. Bid Form

All blank spaces must be completed with the appropriate response. The bidder must state the price, written in ink, for what is proposed to complete each item of the project. Bidders shall insert the words "no bid" in the space provided for an item for which no Bid is made. The bidder shall submit an executed Bid form, affidavit of compliance with other requested documents.

20. Modifications or Withdrawal of Bid

A modification for a Bid already received will be considered only if the modification is received prior to the time announced for opening of Bids. All modifications shall be made in writing, executed and submitted on the same form and manner as the original Bid. Modifications submitted by telephone, fax or email will not be considered.

21. No Bid

If not submitting a Bid, respond by returning the "Statement of No Bid" no later than the stated Bid opening time and date, and explain the reason in the space provided.

22. Errors in Bids

Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements and specifications before submitting Bids; failure to do so will be at the bidder's own risk. Neither law nor regulations make allowance for errors either of omission or commission on the part of bidders. In case of error of extension of prices in the Bid, the unit price shall govern.

23. Prices Bid

Give both unit price and extended total. Price must be stated in units of quantity specified in the bidding specifications. In case of discrepancy in computing the amount of the Bid, the unit price of the Bid will govern. All prices shall be F.O.B. destination, freight prepaid (unless otherwise stated in special conditions). Each item must be bid separately and no attempt is to be made to tie any item or items in with any other item or items. If a bidder offers a discount on payment terms, the discount time will be computed from the date of satisfactory delivery at place of acceptance and receipt of correct invoice at the office specified. Payment terms shall be Net 30 if not otherwise specified. Pre-payment terms are not acceptable.

24. Discounts

Any and all discounts except cash discounts for prompt payments must be incorporated as a reduction in the Bid price and not shown separately. The price as shown on the Bid shall be the price used in determining award(s).

25. Descriptive Information

All equipment, materials and articles incorporated in the product/work covered by this IFB are to be new and of suitable grade for the purpose intended. Brand or trade names referenced in specifications are for comparison purposes only. Bidders may submit Bids on items manufactured by other than the manufacturer specified when an "or equal" is stated.

26. Deviations to Specifications and Requirements

When bidding on an "or equal," Bids must be accompanied with all descriptive information necessary for an evaluation of the proposed material or equipment such as the detailed drawings and specifications, certified operation and test data and experience records. Failure of any bidder to furnish the data necessary to determine whether the product is equivalent, may be cause for rejection of the specific item(s) to which it pertains. All deviations from the specifications must be noted in detail by the bidder on the Affidavit of Compliance form, at the time of submittal of Bid. The absence of listed deviations at the time of submittal of the Bid will hold the bidder strictly accountable to the specifications as written. Any deviation from the specifications as written and accepted by the City may be grounds for rejection of the material and/or equipment when delivered.

27. Samples (if required)

For certain types of procurements, samples may be required. If samples are required, it will be stated in the IFB. The following conditions and requirements apply to all samples submitted.

- a. The samples submitted by bidders on items for which they have received an award may be retained by the City until the delivery of contracted items is completed and accepted. Bidders whose samples are retained may remove them after delivery is accepted.
- b. Samples not retained must be removed as soon as possible after award has been made on the item or items for which the samples have been submitted. The City will not be responsible for such samples not removed by the bidder within thirty (30) days after the award has been made. The City reserves the right to consume any or all samples for testing purposes.
- c. Bidders shall make all arrangements for delivery of samples to place designated as well as the removal of samples. Cost of delivery and removal of samples shall be borne by the bidder.
- d. All samples packages shall be marked "Sample for City Clerk" and each sample shall bear the name of the bidder, item number, Bid number, and shall be carefully tagged or marked in a substantial manner. Failure of the bidder to clearly identify samples as indicated may be considered sufficient reason for rejection of Bid.

28. Quality Guaranty

If any product delivered does not meet applicable specifications or if the product will not produce the effect that the bidder represents to the City, the bidder shall pick up the product from the City at no expense. Also, the bidder shall refund to the City any money which has been paid for same. The bidder will be responsible for attorney fees in the event the bidder defaults and court action is required.

29. Quality Terms

The City reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship, manufacturing, or shipping damages.

30. Tax-Exempt

The City is exempt from sales taxes and Federal Excise Taxes: Missouri Tax ID Number 12494461.

31. Awards

- a. Unless otherwise stated in the IFB, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices. However, such discounts are encouraged to motivate prompt payment.
- b. As the best interest of the City may require, the right is reserved to make awards by item, group of items, all or none, or a combination thereof; to reject any and all Bids or waive any minor irregularity or technicality in Bids received.
- c. Awards will be made to the Bidder whose Bid (1) meets the specifications and all other requirements of the IFB and (2) is the lowest and best Bid, considering price, delivery, responsibility of the bidder and all other relevant factors.

32. Authorized Product Representation

The successful bidder(s) by virtue of submitting the name and specifications of a manufacturer's product will be required to furnish the named manufacturer's product. By virtue of submission of the stated documents, it will be presumed by the City that the bidder(s) is legally authorized to submit and the successful bidder(s) will be legally bound to perform according to the documents.

33. Regulations

It shall be the responsibility of each bidder to assure compliance with OSHA, EPA, Federal, State of Missouri, and City rules, regulations, or other requirements, as each may apply.

34. Termination of Award

Any failure of the bidder to satisfy the requirements of the City shall be reason for termination of the award. Any Bid may be rejected in whole or in part for good cause when in the best interest of the City.

35. Royalties and Patents

The successful bidder(s) shall pay all royalties and license fees for equipment or processes in conjunction with the equipment being furnished. Bidder shall defend all suits or claims for infringement of any patent right and shall hold the City harmless from loss on account or cost and attorney's fees incurred.

36. Equal Employment Opportunity Clause

The City of Willard, in accordance with the provision of Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the Regulations of the Department of Commerce (15 CFR, Part 8) issued pursuant to such Act, hereby notifies all bidders that affirmatively ensure that in any contract entered into pursuant to this advertisement that minority businesses will be afforded full opportunity to submit Bids in response to this advertisement and will not be discriminated against on the grounds of race, color, or national origin in consideration for award.

37. Bid Tabulation

Bidders may request a copy of the bid tabulation of the Invitation for Bid.

38. Budgetary Constraints

The City reserves the right to reduce or increase the quantity, retract any item from the Bid, or upon notification, terminate entire agreement without any obligations or penalty based upon availability of funds.

39. Additional Purchases by Other Public Agencies

The bidder by submitting a Bid authorizes other public agencies to "Piggy-Back" or purchase equipment and services being proposed in this IFB unless otherwise noted on the Affidavit of Compliance Form.

40. Order of Precedence

Any and all Special/General Conditions and Specifications attached hereto, which varies from the instruction to bidders, shall take precedence.

41. Affidavit for Service Contracts

The Bidder represents, in accordance with RSMO 285.530.2 that they have not employed, or subcontracted with, unauthorized aliens in connection with the scope of work to be done under the IFB and agrees to provide an affidavit to the City of Willard affirming that they have not and will not in connection with the IFB, knowingly employ, or subcontract with, any person who is an unauthorized alien.

42. Inspection and Acceptance

No item(s) received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect the item(s). Any item(s) which are discovered to be defective or which do not conform to any warranty of the Seller upon inspection may be returned at the seller's expense for full credit or replacement. If at a later time, the defects were not ascertainable upon the initial inspection may also be returned at the Seller's expense for full credit or replacement. The City's return of defective items shall not exclude any other legal, equitable or contractual remedies the City may have.

**CITY OF WILLARD
INVITATION FOR BID #04-2017PKS
INSURANCE REQUIREMENTS**

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to modification or cancellation of such insurance and shall list the City as additional insured. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Willard, 224 E. Jackson, Willard, MO 65781

The minimum coverage for the insurance referred to herein shall be in accordance with the requirements established below:

A. Workers' Compensation: Statutory coverage per RS.Mo. 287.010 et seq
Employer's Liability: \$1,000,000.00

B. Commercial General Liability Insurance: Including coverage for Premises, Operations Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to Bodily Injury and Property Damage on an "Occurrence Form Basis" with limits of **Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230)** for all claims arising out of a single accident or occurrence and **Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734)** for any one person in a single accident or occurrence.

C. Automobile Liability Insurance: Covering Bodily Injury and Property Damage for owned, non-owned and hired vehicles with limits of Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230) for all claims arising out of a single accident or occurrence and Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734) for any one person in a single accident or occurrence.

D. Tenant shall also pay for and keep in force with a Qualified Carrier, fire insurance (with extended coverage and vandalism and malicious mischief coverage), water damage and sprinkler leakage insurance, on the standard forms, insuring all of Tenant's property in the Premises, and all betterments, additions, repairs, improvements and alterations made to the Premises by Tenant, in an amount equal to 100% of the replacement cost thereof excluding Tenant's personal inventory, during the Lease Term. The proceeds of the policies of such insurance shall be held in

trust by Tenant for use in repairing and restoring the items covered thereby. Tenant shall continually provide Landlord with a certificate or other evidence of such insurance (the first of which shall be provided prior to the Commencement Date), which shall provide that the insurer will give Landlord at least 10 days' written notice prior to any lapse, cancellation of or material change in such insurance.

REQUEST FOR PROPOSAL #04-2017PKS
SECTION ONE: GENERAL INFORMATION

Room Dimensions

- 39'1/2" x 42'2" or roughly 1665' 6" square feet
- The Recreation Center is listed at 17,815 square feet on the building drawings, so the fitness center comprises approximately 9.3% of the total buildings square footage.

Lease Payment Schedule

- Year 1: \$900.00 per month = \$10,800.00
- Year 2: 5% increase
- Year 3: 5% increase

Utility Payment

- Electric: \$200 per month or \$2,400.00 annually
- Gas: \$20.00 per month or \$240.00 annually

Janitorial Supplies / Maintenance Payment

- \$150.00 per month or \$1,800.00 annually

Staff Support Payment

- \$2.00 per hour x 6 hours per day x 5 days a week x 52 weeks a year = \$3,120.00 annually

Total

Annual Lease Payment: \$18,360.00

Business Proposal

- The Lessee must provide a complete business proposal including the following details:
 - Type of business lessee will provide
 - All fees and charges that will be associated with said business
 - All services that will be provided on site
 - Staffing plan for business

1.1 Proposal Due Date

1.2.1 **Sealed proposals in the form of one (1) original and two (2) copies must be received by Friday, October 27, 2017 no later than 3:00 p.m. Proposals will not be accepted after that time.**

1.2.2 For Mail or Hand Delivery: City of Willard, 224 W. Jackson, P O Box 187, Willard, MO 65781

1.2.3 **Proposals should be marked "Willard Recreation Center Activities Room RFP 04-2017PKS"**

1.2.4 At time of opening, Proposals will be opened and the names of proposers read.

1.2 Bid Requirements

- 1.3.1 The City will not be liable for any cost incurred by the proposer in connection with the preparation or the submittal of this proposal or any interviews/presentations.
- 1.3.2 It is the intent and purpose of the City that this RFP provide a fair and equal opportunity for each proposer to submit competitive proposals. It is the proposer's responsibility to advise the City at least five (5) days prior to the proposal submission date of any language or requirement in this RFP, which unreasonably limits the ability of the offeror to respond.
- 1.3.3 The City reserves the right to accept or reject any or all proposals.
- 1.3.4 All proposals shall be firm and irrevocable for 120 days after the date and time set herein for proposal submission.
- 1.3.5 If it becomes necessary to modify or amend any part of this request for proposal, the City will provide the revision in the form of a written addendum to all of the prospective proposers who received an original request for proposal. An addendum will be issued to answer questions as well.
- 1.3.6 In accordance with chapter 610 of the Revised Statutes of the State of Missouri, all firms submitting proposals should be aware that the request for proposal and the responses are considered public information. Each company submitting a proposal is requested to identify specifically any information contained in their proposal they consider confidential or proprietary that they believe is exempt from disclosure, specifically citing the applicable exempting law.
- 1.3.7 The proposer shall furnish such additional information as the City of Willard shall reasonably require. This includes information that indicates financial resources as well as the ability to provide and maintain services.
- 1.3.8 Exceptions to any RFP terms, conditions, and specifications must be placed on the Affidavit of Compliance included herein and will be considered in the final analysis of the proposal. Failure to include an exception on the Affidavit of Compliance will render the exception invalid and the proposer will be treated as being in compliance with the specifications regardless of the intent.
- 1.3.9 The contact for the proposal is JC Loveland, 417-742-5381, parkdir@cityofwillard.org. To insure fair consideration for all proposals, the City prohibits communication with any department, City employee, or City official other than the contact during the submission or evaluation process.

Contract # 04-2017PKS

	NAME, ADDRESS & PHONE OF Lessee
City of Willard	_____
224 W. Jackson	_____
Willard, MO 65781	_____
Ph. 417-742-5302	Ph. _____
Fax 417-742-3080	Fax _____

AGREEMENT

The Tenant agrees to perform, in strict accordance with Exhibit A. The agreement between the City of Willard and the Tenant shall consist of:

(1) The Request for Proposal, and any addenda thereto, (2) the proposal, as accepted, submitted in response to the Request for Proposal and 3) the Lease Agreement. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Lease Agreement shall govern over all other documents, and the Request for Proposal and addenda thereto shall govern over the Tenant's Proposal and addenda thereto. However, the City reserves the right to clarify any contractual relationship in writing with the concurrence of the Tenant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Tenant's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern.

**AFFIDAVIT OF COMPLIANCE
IFB #04-2017PKS**

To be submitted with Vendor's Bid

_____ We DO NOT take exception to the IFB Documents/Requirements.
_____ We TAKE exception to the IFB Documents/Requirements as follows:

Specific exceptions are as follows:

Company Name _____

By _____
Authorized Person's Signature

Print or type name and title of signer

Company
Address _____

Telephone number _____

Fax number _____

Date _____

Addenda
Bidder acknowledges receipt of the following
addendum:
Addendum No. ____
Addendum No. ____
Addendum No. ____

EXHIBIT A

LEASE AGREEMENT

This lease agreement ("Agreement" or "Lease"), is made and entered into effective the ___ day of _____, 2018 (the "Effective Date"), by and between City of Willard, a Missouri Municipal Corporation, (herein after called the "Landlord") and _____' (herein after called the "Tenant").

WITNESSETH:

1. PREMISES. Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, in accordance with the terms, provisions and conditions of this Lease, certain real property described as: ±1,700 square feet located within the Willard Sports and Recreation Center, in Willard, MO, with all improvements thereon (hereinafter referred to as the "Premises"), as more particularly described as the northeast corner of the Willard Sports and Recreation Center located at 133 North Highway Z, Willard Missouri.
2. LEASE TERM. The term of the Lease (the "Lease Term") shall be for a period of three (3) years, commencing on July 1, 2018 (the "Commencement Date") and ending at midnight on the day before the three-year anniversary of the Commencement Date.
3. BASE RENT. During the Lease Term, Tenant agrees to pay Landlord, without prior demand, set-off or deduction, the following rent, which shall be due and payable in advance on the first day of each month during the Lease Term, commencing on the Commencement Date (the "Base Rent"):

(Base Rent details shall be added in accordance with selected vendor proposal and any resulting pre-contract negotiations with said vendor)

The rent shall be payable monthly, in advance, commencing as of the Lease Commencement Date and on the first day of each and every month thereafter during the Lease Term. Unless and until Tenant is notified in writing by Landlord, Tenant shall pay all rent and other amounts payable to Landlord under this Agreement, by check or draft made payable to Landlord, and mailed by Tenant to Landlord's address shown on the signature page hereof.

4. LATE CHARGES. Tenant's failure to promptly pay sums due under this Lease may cause Landlord to incur unanticipated costs. The exact amount of those costs is impractical or extremely difficult to ascertain. Payments due to Landlord under this Lease are not an extension of credit. Therefore, Landlord may, at Landlord's option, and without any prior notice to Tenant, impose a late charge on any payments which are not received by Landlord on or before the tenth day of the month due at a rate of ten percent (10%) of the past-due amount (a "Late Charge"). A Late Charge may be imposed only once ON EACH PAST-DUE AMOUNT. If any check tendered to Landlord by Tenant under this Lease is dishonored for any reason, Tenant shall pay to the party receiving payments under this Lease a fee of one hundred dollars (\$100.00), plus (at Landlord's option) a Late Charge as provided

above until good funds are received by Landlord. The parties agree that any Late Charge and dishonored check fee represent a fair and reasonable estimate of costs Landlord will incur by reason of the late payment or dishonored check. Payments received from Tenant shall be applied first to any Late Charges, second to Base Rent, and last to other unpaid charges or reimbursements due to Landlord.

5. **HOLDING OVER.** Tenant shall vacate the Premises immediately upon the expiration of the Lease Term or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord as a result of any expiration of the Lease Term or earlier termination of this Lease, Tenant's occupancy of the Premises shall be a day-to-day tenancy, subject to all of the terms of this Lease, except that the Base Rent during the hold over period shall be increased to an amount which is two (2) times the Base Rent in effect on the expiration or termination of this Lease, computed on a daily basis for each day of the hold over period, plus all additional sums due under this Lease. This Paragraph shall not be construed as Landlord's consent for Tenant to hold over or to extend this Lease.

6. **USE AND TITLE.** Tenant shall have the right to use the Premises solely for the purpose of operating a Community Fitness Center. Tenant is to provide all fitness equipment in the leased Premises which shall include, at a minimum, the fixtures and equipment indicated on the *pre-contract negotiations with said vendor* which is incorporated herein by reference. Tenant shall promptly comply with all material regulations, orders, ordinances and laws of legally-constituted authorities applicable to the use and occupancy of the Premises. Tenant shall not perform any act or carry on any practice which may injure the Premises or be a nuisance or menace. Tenant shall not permit the leased Premises to be used in any way which would, in the opinion of the Landlord, create a fire hazard or other hazard, and/or otherwise which would in any way increase or render void the fire insurance carried by Landlord or any other Tenants in the building. Tenant shall have and hold quiet and peaceable use and possession of the Premises during the entire Lease Term; and Landlord warrants and agrees to defend such use and possession of Tenant against the claims of any and all persons whomsoever.

Tenant shall be required to set hours of operation according to the *pre-contract negotiations with said vendor*. The parties agree that should problems develop with these negotiated hours, the parties will use good faith in addressing said problems to arrive at a mutually agreeable solution.

7. **MEMBERSHIP FEES FOR USE OF FITNESS CENTER.** Tenant will have the right to charge membership fees for the use of the Community Fitness Center at rates to be established each January, but in no event shall rates at the Willard Facility be an amount in excess of those charged by Tenant to its customers at any similar Tenant owned facility within a 25-mile radius of the Community Fitness Center; and, all rates must be agreed upon by both the City and the Tenant addressing said rates to arrive at agreeable rate. Individuals who secure a Tenant membership shall have the right to access the locker facilities in the Willard Sports and Recreation Center.

8. **COVENANT AGAINST LIENS.** If, because of any act or omission of Tenant, any mechanic's lien or other lien, charge, or order for payment of money shall be filed against Landlord or against the Premises or any portion thereof, Tenant shall, at its own cost and expense, cause the same to be discharged of record or bonded in a manner sufficient to allow a title insurer to insure against said claim within ninety (90) days after written notice from Landlord to Tenant of the filing thereof; and Tenant shall indemnify and hold harmless Landlord against and from all costs, liabilities, suits, penalties, claims and demands resulting there from, including reasonable fees of Landlord's attorneys.

9. **CONDITION OF PREMISES.** Tenant acknowledges that it is leasing the Premises in an "as is-where is" physical condition and that there has been no representation or warranty made by Landlord in connection with the physical or operational condition of the Premises, and no warranty of any nature

shall be implied other than as expressly stated herein.

10. MAINTENANCE, REPAIRS, AND CLEANING.

a. Landlord's Obligation. Subject to provisions of the Paragraph titled "Fire or Other Casualty" and except for damage caused by any act or omission of Tenant, or Tenant's employees, agents, invitees or visitors, Landlord shall pay for and maintain the roof in good order, condition and repair. Landlord agrees to bear the cost of maintaining and cleaning the common areas of the Willard Sports and Recreation Center including the maintenance and provision of all consumable products such as soap and paper products in the adjoining restroom and shower facilities; provide all maintenance of the grounds and parking facilities; provide all maintenance of the HVAC systems and shall provide pest control. If any repairs are required to be made by Landlord that will impact the Tenant space, the Tenant shall, at Tenant's sole cost and expense, promptly remove Tenant's furnishings, fixtures, inventory, equipment and other property, to the extent required to enable Landlord to make repairs unless, however, the required repairs are the result of the negligence of Landlord. Landlord's liability under this Paragraph shall be limited to the cost of the required repairs or corrections.

b. Tenant's Obligation. Subject to the provisions of the Paragraph titled "Fire or Other Casualty": Tenant shall, at all times, keep and maintain any and all portions of the Premises, in good order, condition and repair, ordinary wear and tear excepted. Should Tenant fail to make such repairs or replacements promptly, Landlord may, at its option and among other remedies, enter the Premises without such entering causing or constituting an interference with the possession of the Premises by Tenant, make such repairs or replacements and Tenant shall pay the cost thereof to Landlord on demand. Tenant shall maintain the Premises in full compliance with all federal, state and/ or local laws, codes and regulations applicable to the Premises. Tenant shall be responsible for the costs of maintaining and cleaning the area leased by Tenant known as the leased Premises, and Tenant shall at all times provide its own housekeeping services for the leased Premises and maintain the interior of the leased Premises in good condition.

11. ALTERATIONS: Tenant may, at its own cost and expense, but only after receiving Landlord's written consent (which shall not be unreasonably withheld), make from time to time such alterations, replacements, additions, changes and improvements, in and to the interior or exterior of the Premises as Tenant may find necessary or convenient for its purposes. Tenant agrees to provide copies of all architectural plans and specifications and related governmental permits to Landlord for aid in its determination for approval of such alterations. Tenant shall pay the costs of any alterations, replacements, additions, changes and improvements done on the Premises, and shall keep the Premises free and clear of liens of any kind. No such alteration or improvement shall impair the structural integrity of any building comprising a part of the Premises. All such alterations and improvements shall be made promptly and in a good workman like manner and in compliance with all applicable permits and

authorizations.

All alterations and improvements made on the Premises by Tenant shall become the property of Landlord at the expiration or termination of the Lease Term and shall be surrendered with the Premises.

All equipment, furniture and trade fixtures installed or placed in the Premises by Tenant shall remain the property of Tenant and may be removed by Tenant, at its own cost and expense, at any time before the expiration of ten (10) days after the termination of this Lease; provided, however, that (i) such removal shall not impair the structural integrity of the improvements then located on the Premises, or leave the heating, ventilation, cooling, electrical or plumbing systems thereon incomplete, and (ii) if any such damage to improvements results from such removal, Tenant shall repair such damage immediately at its own cost and expense.

12. SUBORDINATION AND NONDISTURBANCE. Upon request of Landlord, Tenant agrees to execute and deliver a written agreement subordinating this Lease and Tenant's rights under this Lease to the lien of any real estate mortgage or bond issue on the Premises granted by Landlord to a mortgagee, lender, or other; provided, however, that any such written agreement shall provide that so long as there is not outstanding a continuing event of default by Tenant in any term, condition, covenant, or agreement of this Lease, the leasehold estate of the Tenant, its successors and assigns, created under this Lease and Tenant's peaceful and quiet possession, use, and enjoyment of the Premises shall be undisturbed by any foreclosure of said mortgage or bond issue.

13. INSURANCE. Without limiting any of the other obligations or liabilities of the Tenant, the Tenant shall secure and maintain at its own cost and expense, throughout the term of this Agreement and until the services are provided and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Lease Agreement. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Lease Agreement. Failure of the Tenant to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Agreement.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Tenant and prior to the start of work. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to modification or cancellation of such insurance and shall list the City as additional insured. Such notices shall be mailed via certified mail, return receipt requested, to:

City of Willard - City Clerk - P.O. Box 187, Willard, MO 65781

The minimum coverage for the insurance referred to herein shall be in accordance with the requirements established below:

A. Workers' Compensation: Statutory coverage per RS.Mo. 287.010 et seq
Employer's Liability: \$1,000,000.00

B. Commercial General Liability Insurance: Including coverage for Premises, Operations Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to Bodily Injury and Property Damage on an

"Occurrence Form Basis" with limits of **Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230)** for all claims arising out of a single accident or occurrence and **Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734)** for any one person in a single accident or occurrence.

C. Automobile Liability Insurance: Covering Bodily Injury and Property Damage for owned, non-owned and hired vehicles with limits of Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230) for all claims arising out of a single accident or occurrence and Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734) for any one person in a single accident or occurrence.

D. Tenant shall also pay for and keep in force with a Qualified Carrier, fire insurance (with extended coverage and vandalism and malicious mischief coverage), water damage and sprinkler leakage insurance, on the standard forms, insuring all of Tenant's property in the Premises, and all betterments, additions, repairs, improvements and alterations made to the Premises by Tenant, in an amount equal to 100% of the replacement cost thereof excluding Tenant's personal inventory, during the Lease Term. The proceeds of the policies of such insurance shall be held in trust by Tenant for use in repairing and restoring the items covered thereby. Tenant shall continually provide Landlord with a certificate or other evidence of such insurance (the first of which shall be provided prior to the Commencement Date), which shall provide that the insurer will give Landlord at least 10 days' written notice prior to any lapse, cancellation of or material change in such insurance.

14. INDEMNIFICATION. Except with respect to Landlord's willful misconduct or gross negligence, Tenant shall defend all actions against Landlord with respect to, and shall pay, protect, indemnify and save harmless the Landlord from and against, any and all liabilities, lawsuits, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, claims, demands, or judgments of any nature (i) to which the Landlord is subject to because of the Landlord's interest in the Premises, or (ii) arising from (1) injury to or death of any person, or damage to or loss of property, on the Premises or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy of the Premises by Tenant, (2) Tenant's violation or breach of this Lease, or (3) any act or omission of Tenant or its agents, contractors, licensees, sub-licensees, invitees or employees.

15. FIRE OR OTHER CASUALTY. In the event the Premises is partially or totally destroyed or damaged by fire or other casualty, Landlord may, at its option, terminate this Agreement, and in such event, the Base Rent hereunder shall be prorated for such month during which Landlord's termination occurs and shall not be due thereafter. In the event the Landlord does not so terminate this Lease, then, subject to the following provisions of this Section, Landlord may proceed as soon as is reasonably practicable, at its sole cost and expense to the extent of insurance proceeds available, if any, to repair and restore the Premises to substantially the same condition as that before the damage occurred; provided, further, the Base Rent due from Tenant hereunder shall be abated during the period of restoration to the extent of the unusable portion of the Premises. In the event Landlord does not complete such repair and restoration within six months from the date of damage or destruction, Tenant may terminate this Agreement. In the event the damage or destruction to the Premises through fire or other casualty is directly or indirectly attributable to any act of fault or negligence on the part of Tenant, and/or its agents, employee, licensees, or invitees, then (i) such damage or destruction to the Premises shall be promptly repaired by Tenant, at its sole cost and expense; (ii) the Base Rent shall not abate during such period of restoration and refurbishment; (iii) Tenant shall not be entitled to terminate this Agreement; and (iv) Tenant shall fully reimburse Landlord for all costs and expenses, including responsible attorneys' fees, incurred by Landlord on behalf of Tenant in connection with undertaking the obligations of Tenant hereunder.

16. DEFAULT.

(a) By Tenant. If Tenant shall be declared bankrupt, be placed in receivership or take advantage of any law for the relief of debtors, or in the event of any failure of Tenant to pay any charges, rents or fees due hereunder for more than *five* days after due, or any failure by Tenant to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than twenty (20) days after written notice of such failure shall have been given to Tenant (unless such failure is of such a nature that it commenced the cure thereof within such twenty (20) day period and thereafter proceeded with reasonable diligence and in good faith to remedy such failure), Tenant shall be in default hereunder and Landlord shall have the right and option to pursue all of its legal remedies including, without limitation, the right to terminate this Lease, to re-enter the Premises as agent of Tenant, and to evict Tenant and to *remove* Tenant's possessions, all without being deemed guilty of any trespass and without prejudice to any claim by Landlord for damages for breach of this Lease or for arrears of rent or any other amounts due hereunder.

(b) By Landlord. In the event of any failure by Landlord to perform any of the terms, conditions and covenants of this Lease to be observed or performed by Landlord for more than twenty (20) days after written notice of such failure shall have been given to Landlord (unless such failure is of such nature that it cannot be cured within such twenty (20) day period and thereafter proceeded with reasonable diligence and in good faith to remedy such failure), Landlord shall be in default hereunder, and Tenant may (i) terminate this Lease by giving thirty (30) days written notice to Landlord, or (ii) pursue any remedy at law or in equity that Tenant may have as a result of Landlord's default, including, but not limited to, seeking specific performance of this agreement.

(c) Mitigation of Damages. Each party agrees that it has a duty to mitigate damages and covenants and that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other party's performance or non-performance of this Agreement.

(d) Limitation of Landlord's Liability. As used in this Lease, the term "Landlord" means only the current owner or owners of the fee title to the Premises at the time of question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease accruing on or after the date of transfer, and Tenant agrees to recognize the transferee as Landlord under this Lease.

17. Enforcement. In the event either party to this Lease obtains legal counsel and/or commences legal proceedings to enforce any right under this Lease or to obtain relief for the breach of any term, condition, or covenant herein, the party ultimately prevailing (or substantially prevailing) in such proceedings shall be entitled to recover from the other party the reasonable costs and expenses of such proceedings, including reasonable attorney fees.

18. Notices. Any notice given hereunder shall be in writing and may be delivered in person or be sent by certified or registered mail, postage prepaid, addressed to the party to receive same at the address of such party shown on the signature page hereof or such other address as such party may hereafter furnish to the other in writing. Any notice mailed in accordance with the preceding sentence shall be deemed to have been served at the time it is received.

19. Memorandum of Lease. At the request of either party, the parties shall also execute and deliver a short form memorandum of this Lease in the real estate records of Greene County, Missouri.

20. Environmental Matters.

(a) Prohibition Against Hazardous Substances. During the Lease Term, Tenant shall not allow at any time the storage, disposal, discharge, burial, incineration, or use of any Hazardous Substances on the

Premises unless otherwise in compliance with any and all applicable laws, statues, ordinances or regulations, in addition to Environmental Laws. Tenant shall indemnify and hold the Landlord harmless from and against all claims for or on account of or arising out of any violation of any Environmental Law by Tenant with respect to the Premises, or disposal of or release of any Hazardous Substance on the Premises by Tenant, for any period during the Lease Term. Further, in the event of a violation by Tenant of the terms of this Lease Agreement, the Landlord may elect to terminate this Lease by written notification to Tenant.

(b) Definitions. For purposes of this Paragraph, the following terms shall have the following meanings:

(i) The term "Environmental Law" shall mean and be defined as any federal, state or local law, statute, ordinance, or regulation pertaining the health, industrial hygiene or the environmental conditions on, under, or about the Premises, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, the Resource Conservation and Recovery Act of 1976 ("RCRA"), also known as the Super Fund Amendments and Authorization of 1986 ("SARA").

(ii) The term "Hazardous Substance" shall mean and be defined herein as those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, RCRA, SARA and the Hazardous Materials Transportation Act, as amended, and in the regulations promulgated pursuant to such laws, together with such substances listed in the United States Department of Transportation Table or by the Environmental Protection Agency (or any successor agency) as hazardous substances, together with any other substances, materials, and wastes which are or become regulated under application local, state, or federal law, or which are classified as hazardous or toxic under federal, state, or local law.

21. Assignment and Subletting. Tenant shall not assign this Lease in whole or in part, or sublet all or any part of the Premises, without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Landlord may assign this Lease without the prior consent of the Tenant.

22. Signs. Tenant shall have the right to erect and/or replace a suitable, professional sign on the Premises, subject to compliance with all applicable laws, ordinances, orders, rules, regulations or requirements of any applicable governmental entity and also subject to Landlord's prior written approval, which shall not be unreasonably withheld or delayed.

23. Utilities. Tenant agrees to pay for all gas, electric, basic cable television service, water, sewer and trash services that serves or is utilized upon the Premises during the Lease Term. The Utilities will be prorated according to the square feet of the premises leased by the Tenant.

24. Execution. This Agreement is executed in multiple originals as of the date first above written and shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The Paragraph captions used herein are for convenience only and shall not be deemed to have been included for any other purpose.

25. Severability. A determination by a court of competent jurisdiction that any provision of the Lease is invalid or unenforceable shall not cancel or invalidate the remainder of that provision of this Lease, which shall remain in full force and effect.

26. Amendments or Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Premises, and no other agreements are effective unless made a part of this Lease. All amendments to the Lease must be in writing and signed by all parties. Any other attempted amendment shall be void.

27. Survival. All obligations of any party to this Lease which are not fulfilled at the expiration or the termination of this Lease shall survive such expiration or termination as continuing obligations of the party.

28. Binding Effect. This Lease shall be to the benefit of, and be binding upon, each of the parties to this Lease and their respective heirs, representatives, successors, and assigns. However, Landlord shall not have any obligation to Tenant's successors and assigns unless the rights or interests of the successors or assigns are acquired in accordance with the terms of this Lease.

29. Time of the Essence. Time is of the essence for this Lease and each and every covenant, term, condition, and provision hereof.

30. Governing Law. The laws of the jurisdiction in which the Premises are located shall govern the validity, performance and enforcement of this Lease.

31. Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED INDUCEMENT FOR LANDLORD TO AGREE TO LEASE THE PREMISES TO TENANT, TENANT HEREBY EXPLRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATED TO THIS LEASE OR ARISING IN ANY WAY FROM TENANT'S USE OF THE PREMISES OR LANDLORD'S OBLIGATIONS RELATED THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the Effective Date.

LANDLORD:

City of Willard, a Municipal
Corporation

Corey Hendrickson, Mayor

Notice to:

City of Willard

P.O. Box 187
Willard, Missouri 65781
Attn: City Clerk

With Copy to:

Mr. Ken Reynolds
Attorney at Law
1548 E. Primrose
Springfield, Missouri 65804
Attn: Mr. Ken Reynolds

TENANT:

CITY OF WILLARD STATEMENT OF "NO BID"
IFB #04-2017PKS

**RETURN THIS PAGE ONLY IF YOUR COMPANY PROVIDES THE PRODUCTS/SERVICES BEING BID AND
DECLINES TO DO SO.**

WE, THE UNDERSIGNED, HAVE DECLINED TO BID ON YOUR **IFB 04-2017PKS** FOR CONSTRUCTION OF A
CONCESSION BUILDING FOR THE REC CENTER FOR THE FOLLOWING REASON(S):

_____ SPECIFICATIONS ARE TOO "TIGHT," I.E. GEARED TOWARD ONE (1) BRAND OR MANUFACTURER
ONLY (PLEASE EXPLAIN BELOW).

_____ INSUFFICIENT TIME TO RESPOND TO INVITATION FOR BID.

_____ OUR PRODUCT SCHEDULE WOULD NOT PERMIT US TO PERFORM.

_____ UNABLE TO MEET SPECIFICATIONS.

_____ UNABLE TO MEET INSURANCE REQUIREMENTS.

_____ SPECIFICATIONS UNCLEAR (PLEASE EXPLAIN BELOW).

_____ OTHER (PLEASE SPECIFY BELOW).

REMARKS:

COMPANY NAME: _____

ADDRESS: _____

SIGNATURE AND TITLE: _____

TELEPHONE NUMBER: _____

DATE: _____